



4310-05-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

[SATS No. IL-109-FOR; Docket ID: OSM-2019-0003 S1D1S SS08011000

SX064A000 190S180110; S2D2S SS08011000 SX064A000 19XS501520]

Illinois Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; reopening of the public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are reopening the public comment period and providing an opportunity for a public hearing on a proposed amendment to the Illinois regulatory program (Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) published on May 1, 2019. The public comment period is being reopened and an opportunity for a public hearing is being provided at the request of three Illinois citizen's organizations. The granting of this request affords the public additional time to provide written comment and the opportunity to request to speak at a public hearing.

Illinois proposes revisions to its regulations, including allowing the extraction of coal as an incidental part of a government-financed construction project, revising its Ownership and Control rules, and clarifying land use changes requiring a significant permit revision. Illinois intends to revise its program to be as effective as the Federal regulations.

This document gives the times and locations where the Illinois program documents and this proposed amendment to that program are available for your inspection, establishes the new comment period during which you may submit written comments on the amendment, and describes the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4:00 p.m., CDT, [INSERT DATE 14 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. We will hold a public hearing on the amendment at 5:30 p.m. on June 18, 2019 at our office location listed in **ADDRESSES**. We will accept requests to speak at a hearing until 4:00 p.m., CDT on June 13, 2019.

ADDRESSES: You may submit comments, identified by SATS No. IL-109-FOR, by any of the following methods:

- *Mail/Hand Delivery:* Joy Schieferstein, Acting Chief, Alton Field Division, Office of Surface Mining Reclamation and Enforcement, 501 Belle Street, Suite 216, Alton, Illinois 62002-6169.
- *Fax:* (618) 463-6470
- *Federal eRulemaking Portal:* The amendment has been assigned Docket ID OSM-2019-0003. If you would like to submit comments go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Comment Procedures” heading of

the **SUPPLEMENTARY INFORMATION** section of the proposed rule published on May 1, 2019 (84 FR 18428).

Docket: For access to the docket to review copies of the Illinois program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSMRE's Alton Field Division, or the full text of the program amendment is available for you to review at www.regulations.gov.

Joy Schieferstein, Acting Chief

Alton Field Division

Office of Surface Mining Reclamation and Enforcement

501 Belle Street, Suite 216

Alton, Illinois 62002-6169

Telephone: (618) 463-6460

Email: jschieferstein@osmre.gov

In addition, you may review a copy of the amendment during regular business hours at the following location:

Office of Mines and Minerals

Illinois Department of Natural Resources

One Natural Resources Way

Springfield, IL 62702-1271

Telephone: (618) 439-9111

FOR FURTHER INFORMATION CONTACT: Joy Schieferstein, Acting Chief,
Alton Field Division. Telephone: (618) 463-6460, Email: jschieferstein@osmre.gov.

SUPPLEMENTARY INFORMATION:

On May 1, 2019 (84 FR 18428), we published a proposed rule that would revise the Illinois program. By letter dated December 5, 2018 (Administrative Record No. IL-5100), Illinois sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*) at its own initiative. By email dated December 11, 2018, Illinois requested that OSMRE's review be put on hold until they could resubmit the proposed amendment due to editorial changes requested by the Illinois Joint Committee on Administrative Rules. Illinois resubmitted the proposed amendment to OSMRE on February 20, 2019. OSMRE will use this date for its review. Below is a summary of the changes proposed by Illinois. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

Illinois proposes to revise the Illinois Surface Coal Mining Land Conservation and Reclamation Act (225 ILCS 720), Section 1.06, "Scope of the Act," by adding language allowing coal extraction as an incidental part of a government-financed project. The language added is nearly identical to that found in Section 528 of SMCRA (30 U.S.C. 1278).

Illinois also proposes to revise the following Parts of Title 62 of the Illinois Administrative Code:

Section 1701.APPENDIX A. Definitions.

Illinois proposes to revise its regulation at section 1701 Appendix A, amending a number

of its definitions, including those for “ownership,” “control,” and “violations,” to conform with the Federal definitions at 30 CFR 701.5 and 707.5.

Section 1703 Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction

Illinois proposes adding a new section 1703 to allow the extraction of coal as an incidental part of a government-financed construction project, which incorporates language identical to the Federal regulations at 30 CFR Part 707.

Section 1773 Requirements for Permits and Permit Processing

Illinois proposes to amend section 1773.15, “Review of Permit Applications” to comport with changes made to the Federal regulations at 30 CFR 773.12. These changes preclude the Department from considering violations upstream of the permit applicant by removing “person who owns or controls the applicant” from this section.

Illinois also proposes to amend section 1773.25, “Standards for Challenging Ownership or Control Links and the Status Violations,” to update a subsection reference.

Section 1774 Permit Revisions

Illinois proposes to amend section 1774.13, “Permit Revisions,” to provide further clarification as to which reclamation plan land use changes require a significant revision for a permit application. Illinois proposes to remove the requirement for a significant revision for land use changes involving greater than five percent of the total permit acreage after finding the five percent limitation to be unduly restrictive and burdensome. Instead, the Department will consider changes in the reclamation plan for post-mining land use in determining whether a significant revision to the permit must be obtained.

These changes are proposed in order to make the Illinois rules as effective as the Federal regulations at 30 CFR 774.13.

Section 1778 Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information

Illinois proposes adding a new section 1778.9, “Certifying and Updating Existing Permit Application Information,” which incorporates language identical to the Federal regulations at 30 CFR 778.9.

Illinois proposes to amend section 1778.13, “Identification of Interests,” to comport with changes made to the Federal regulations at 30 CFR 778.11 and 778.12.

Illinois proposes to amend section 1778.14, “Violation Information,” to comport with changes made to the Federal regulations at 30 CFR 778.14.

Illinois proposes to amend section 1778.15, “Right of Entry Information,” to add language found in the Federal regulations at 30 CFR 778.13 related to property interest information to the existing right of entry language in this section, which corresponds to 30 CFR 778.15, so that all property related rules are located in one section.

During the initial comment period, we received requests from three citizen’s organizations (Administrative Record No. IL-5104, IL-5106 and IL-5108) to extend the public comment period and the date to request to testify at a public hearing. Based on that request, we have extended both time periods as described in **DATES** in this notice.

Public Hearing

The hearing will be open to anyone who would like to attend and/or testify. The primary purpose of the public hearing is to obtain your comments on the proposed rule so that we

can prepare a complete and objective analysis of the proposal. The purpose of the hearing officer is to conduct the hearing and receive the comments submitted. Comments submitted during the hearing will be responded to in the preamble to the final rule, not at the hearing. If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., CDT on June 13, 2019. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. The location of the hearing is our office, listed under **ADDRESSES** above. Those persons requesting to speak will need to register at our office between 5:00 and 5:30 p.m., CDT. At the hearing, a court report will record and make a written record of the statements presented. This written record will be made part of the administrative record for the rule. To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard. We appreciate all comments but those most useful and likely to influence decisions on the final rule will be those that either involve personal experience or include citations to, and analyses of SMCRA, its legislative history, its implementing regulations, case law, other State or Federal laws and regulations, data, technical literature, or relevant publications.

List of Subjects in 30 CFR Part 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 21, 2019

Alfred L. Clayborne, Regional Director

Mid-Continent Region

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